



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
PETER BERTIN)

For Appellants: Peter **Bertin**, in pro. per.

For Respondent: Vasio Gianulias
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Peter Bertin against proposed assessments of additional personal income tax and penalties in the amounts of \$2,570.17 and \$2,810.56 for the years 1976 and 1977, respectively.

After receiving information indicating that appellant was required to file California personal income tax returns for the years 1976 and 1977,

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respondent advised appellant that it had no record of his having filed returns for those years, and it demanded that he file. When appellant failed to comply, respondent issued proposed assessments for those years based upon information from the Employment Development Department, which confirmed that appellant was employed by **Ecker Bros. Inc.** and had received wages in the amounts of \$24,108 and \$25,015 for the years 1976 and 1977, respectively. The assessments for each year included penalties for failure to file a timely return, failure to file after notice and demand, negligence and for failure to pay estimated tax.

Respondent's determinations of tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) Here, as in Durham, no error has been shown. Appellant's contention that he is not required to file returns is clearly without merit, based as it is on a variety of frivolous "constitutional" objections to the existing system of income taxation. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 25, 1977.) On the basis of the evidence before us, we **can** only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action in this matter will, therefore, be sustained.

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Peter **Bertin** against proposed assessments of additional personal income tax and penalties in the amounts of **\$2,570.17** and **\$2,810.56** for the years 1976 and 1977, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 30th day
of ~~March~~, 1981, by the State Board of Equalization,
with Members Dronenburg, Bennett and Nevins present.

Ernest J. Dronenburg, Jr. , Chairman

William PI. Bennett , Member

Richard Nevins, Member

Member

Member